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May 27, 2011

Tina J. Miranda  
Assistant Attorney General  
Post conviction Litigation Division  
P.O. Box 12548  
Austin, Texas 78711

Re: Texas v. Acker

Dear Ms. Miranda:

As requested, I have reviewed the following materials in regard to the above case:

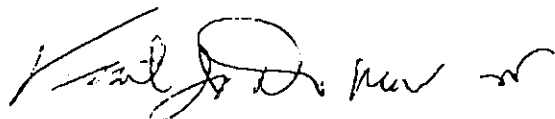
1. The autopsy report
2. Photos of the body and scene
3. The report of G.M. Larkin, M.D.
4. Trial Transcripts Volumes 19-22

Based on the aforementioned materials, it is my opinion that the diagnosis of strangulation of Marquette George is not supportable by the evidence. The neck injuries and petechiae are non-specific and better explainable by the massive blunt force injuries incurred when Ms. George went out the moving truck and was run over. In addition, to strangle an individual one has to maintain continuous pressure on the neck, occluding both the carotid arteries, for 2-3 minutes. I do not think this would be possible under the circumstances of this incident i.e. using one hand while driving a truck and the victim a healthy adult female.

As to whether, Ms. George jumped or was pushed from the truck, it is impossible to say from the injuries. While Dr. Larkin gives a detailed explanation as to how each injury occurred and why she had to have jumped out the truck, in my opinion this is not possible, due to too the many variables. These include: the speed of the truck; whether it was going straight or swerving when she left the truck; if swerving to the right or left. In addition, was Mr. Acker holding on to her or her clothing? Was he pushing her out or trying to pull her back? Did she go out face first as if diving, or backward as if falling or being pushed, or sideways as if she was falling or being pushed to her right? Was she attempting to stop her exiting the vehicle by holding onto Mr.

Acker or the door or a seat belt? With all these variables and possibilities, all that one can say from the autopsy findings is that she incurred her injuries from going out a moving vehicle and being run over by the vehicle. In regard to absence of tire marks, these may be absent on both the clothing and the body in some cases.

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent J.M. DiMaio, M.D.", with a stylized flourish at the end.

VINCENT J.M. DI MAIO, M.D.